

of 3
**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

PAUL D SCOLARDI

Debtor(s)

NOTICE OF MOTION AND MOTION
FOR DISMISSAL OR CONVERSION

Case No. - BKY 10-48719 RJK
Chapter 13

TO: All parties in interest under LOCAL RULE 9013-3.

1. Jasmine Z. Keller, (the "Trustee"), moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 10:30 a.m., or as soon thereafter as counsel may be heard, on **December 15, 2011**, in U.S. Bankruptcy Court, Courtroom 8 West, Eighth Floor, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.
3. Any response to this motion must be filed and served not later than December 9, 2011, which is five days before the time set for the hearing (including Saturdays, Sundays, and holidays). ***Unless a response opposing the motion is timely filed, the court may grant the motion without a hearing.***
4. The Court has jurisdiction of this motion pursuant to 28 U.S.C. §§157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This motion arises under 11 U.S.C. §1307 and Fed. R. Bankr. P. 1017. This motion is filed under Fed. R. Bankr. P. 9013 and Local Rule 9013-1 *et seq.* The petition commencing this chapter 13 case was filed on 11/23/10. The case is now pending in this Court.
5. If testimony is necessary as to any facts relevant to this motion, Dawn Kassa, Chapter 13 Trustee's Office, 12 South 6th Street, Suite 310, Minneapolis, Minnesota, will testify on behalf of the Trustee.
6. The Trustee requests that this case be dismissed or converted to a Chapter 7 case because Debtor(s) failed to make payments to Trustee thereby creating current defaults or arrearages on plan payments of \$10400.00 as of November 18, 2011. The last payment credited to the Debtor(s)' account was on 10/14/2011. Total payments of \$31400.00 have been made to date hereof. Required monthly payments are currently \$3000.00.

The November, 2011 payment is not included in the listed default amount. Any payment less than the amount required to bring the plan current will not prevent dismissal of this case.

All payments to cure plan arrears must be made with a cashiers check or money order and sent to: Jasmine Z. Keller; PO Box 860026; Minneapolis, MN 55486-0026. Do not send payments to the trustee's office.

NO PERSONAL CHECKS WILL BE ACCEPTED.

WHEREFORE, the Trustee requests an order granting the relief prayed for herein.

Jasmine Z. Keller, Trustee

Dated: November 18, 2011

/e/ Thomas E. Johnson
Thomas E. Johnson #52000
Margaret H. Culp #180609
Counsel for Chapter 13 Trustee
12 South 6th Street., Suite 310
Minneapolis, MN 55402
(612) 338-7591

VERIFICATION

I, Dawn Kassa, an employee of the Trustee, declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: November 18, 2011

/e/ Dawn Kassa
Dawn Kassa
Chapter 13 Office

In Re: UNSWORN DECLARATION OF
PROOF OF SERVICE
PAUL D SCOLARDI
Case No. - BKY 10-48719 RJK
Debtor(s) Chapter 13

I, Dawn Kassa, declare that on the date stated below I served a copy of the Notice of Motion and Motion for Dismissal or Conversion and Unsworn Declaration of Proof of Service, upon each of the entities named below in the manner described, as follows:

Copy to Debtor(s) addressed to:

PAUL D SCOLARDI
12300 SINGLETREE LANE #1307
EDEN PRAIRIE, MN 55344

Additional Copy(s) by electronic mail or by first class U.S. mail postage prepaid addressed to:

and I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: November 18, 2011

/e/ Dawn Kassa
Dawn Kassa
Chapter 13 Office